



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,126	10/11/2001	Andrew Dwight Dingsor	RSW919980041US2	9263

36736 7590 11/01/2005

DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS, TX 75380

EXAMINER

WINDER, PATRICE L

ART UNIT	PAPER NUMBER
----------	--------------

2145

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/976,126

Applicant(s)

DINGSOR ET AL.

Examiner

Patrice Winder

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-20 and 38-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 and 39-41 is/are allowed.
- 6) ☒ Claim(s) 38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 38 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification lacks description of a "tangible" computer readable medium. As such, the insertion of "tangible" is considered new matter.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention is directed to non-statutory subject matter.

4. Claim 38 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim discloses a computer program product and a computer readable medium. The medium is not tangibly limited to a product that is within and enabled by the specification. Claim 38 is not limited to tangible embodiments. In view of Applicant's disclosure, specification page 23, lines 3-15, the

medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., floppy disk) and intangible embodiments (e.g., communication links). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

5. See paragraphs #7 for an explanation as to why the rejection under 35 U.S.C. 101 is being maintained.

Double Patenting

6. The remarks filed on August 19, 2005 state that a terminal disclaimer was filed "herewith". After careful review of the documents filed on August 19, 2005, a terminal disclaimer was not found. In light of applicant's amendment to claims in question the double patenting rejection is withdrawn.

Specification

7. The amendment filed August 19, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Applicant's specification does not include a written description which identifies "tangible" media. Therefore, the written description can provide no basis for "tangible" media.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claim 38 is rejected under 35 U.S.C. 102(e) as being anticipate by anticipated by Lim et al. ("Lim"), USPN 6,718,550.

10. Regarding claim 38, Lim discloses a computer program product for routing packets from a client to a selected process within a plurality of processes servicing a connection between the data processing system and the client () comprising:
a tangible computer readable medium;
first instructions for receiving a packet for connection between the data processing system and the client, wherein the packet includes a destination address (Lim, col. 6, lines 30-60 and col. 10, lines 1-62); and
second instructions for translating, in a dispatch layer between a packet routing layer and IP layer, the destination address to an intermediate destination address, wherein the intermediate destination address is an address for the selected process within plurality of processes, wherein the instructions are embodied within the tangible computer readable medium (Lim, col. 6, lines 61-67, col. 7, lines 1-17).

Response to Arguments

11. Applicant's arguments filed August 19, 2005 have been fully considered but they are not persuasive.

12. Applicant argues – “Therefore, Lim does not teach a dispatch layer that translates the destination address in the packet to a process address for the identified process within the plurality of processes, as recited in claim 38, of the present invention.”

13. In Lim, a client initiated a remote procedure call to a designated object reference, see column 6, lines 24-29. The object reference included a location indicator to a method dispatch table 24, see column 6, lines 49-55. At the destination address, i.e. location indicator, a method table dispatch mechanism 24 processed the call. Next, method dispatch table 24 determined an appropriate stub function and a particular subcontract associated with the subcontract identifier (column 6, lines 64-67, column 7, lines 1-17) to invoke the remote object reference. Lastly, the subcontract identifier is included in the object key 156 which functions as an address because the object key is used to locate the desired servant object, see column 9, lines 12-26.

14. Applicant argues – “As discussed above in arguments presented for claim 16, Lim only teaches converting formation, such as an object reference, to protocols that is appropriate for a given domain, which is different from translating a destination address to a process address.”

15. In contrast to applicant's statements, Lim taught “translating a destination address to a process address”. Lim taught the destination address is the method table

dispatch as identified by a location indicator, column 6, lines 49-55. The call is processed at the method table dispatch 24 and a subcontract identifier is selected, column 6, lines 64-67. Then, the subcontract identifier is included in object key 156 of the object reference of the desired servant object, see column 9, lines 12-26. The intermediate address of the object reference is found in object key 156 after the subcontract identifier is selected.

Allowable Subject Matter

16. Claims 16-20, 39-41 are allowed.

17. The following is an examiner's statement of reasons for allowance:

The closest prior art of record is Lim. Lim fails to teach or suggest a dispatch layer between a packet routing layer and an IP layer, wherein the dispatch layer is defined by least the following operations:

the dispatch layer receives a packet from a client, wherein the packet includes a destination address;

responsive to receiving the packet, the dispatch layer identifies a process within the plurality of processes to service the client;

the dispatch layer translates the destination address to a process address for the identified process within the plurality of processes; and

responsive to the translation, the dispatch layer sends the packet to the packet routing layer as recited in applicant's claims and as argued by the applicant in the remarks filed on August 19, 2005.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

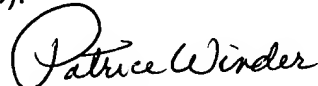
18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrice Winder whose telephone number is 571-272-3935. The examiner can normally be reached on Monday-Friday, 10:30 am-7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Patrice Winder
Primary Examiner
Art Unit 2145

October 28, 2005